

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

SEAN D. MALCOLM,	:	
	:	
Plaintiff,	:	Civ. No. 19-11734 (FLW) (DEA)
	:	
v.	:	
	:	
S.C.O.M. BRAY et al.,	:	<b>MEMORANDUM AND ORDER</b>
	:	
Defendants.	:	
	:	

Plaintiff, Sean D. Malcolm (“Plaintiff”), a state prisoner presently incarcerated at New Jersey State Prison, in Trenton, New Jersey, filed *pro se* with the Court a Complaint alleging claims under 42 U.S.C. § 1983, accompanied by an application to proceed *in forma pauperis*. (ECF Nos. 1 & 1-1.) Leave to proceed in this Court without prepayment of fees is authorized. *See* 28 U.S.C. § 1915. This case is subject to screening by the Court *sua sponte*, and the Court will screen the complaint in due course.

Therefore, IT IS, on this 30<sup>th</sup> day of April 2019,

ORDERED that Plaintiff's application to proceed *in forma pauperis*, (ECF No. 1-1), is hereby GRANTED; and it is further

ORDERED that the Complaint shall be filed; and it is further

ORDERED that **SUMMONS SHALL NOT ISSUE** at this time, as the Court has not yet completed its *sua sponte* screening; and it is further

ORDERED that the time to serve process under Federal Rule of Civil Procedure 4(m) is hereby extended to ninety (90) days after the Court permits the Complaint to proceed; and it is further

ORDERED that, as per 28 U.S.C. § 1915(b) and for purposes of account deduction only, the Clerk of the Court shall serve a copy of this order by regular U.S. mail upon the Attorney General of the State of New Jersey and the warden of New Jersey State Prison; and it is further

ORDERED that Plaintiff is assessed a filing fee of \$350.00 and shall pay the entire filing fee in the manner set forth in this order pursuant to 28 U.S.C. § 1915(b)(1) and (2), regardless of the outcome of the litigation, meaning that, if the Court dismisses the case upon *sua sponte* screening or Plaintiff's case is otherwise administratively terminated or closed, § 1915 does not suspend installment payments of the filing fee or permit refund to the Plaintiff of the filing fee, or any part of it, that has already been paid; and it is further

ORDERED that, under *Bruce v. Samuels*, 136 S. Ct. 627, 632 (2016), if Plaintiff owes fees for more than one court case, whether to a district or appellate court, under the Prison Litigation Reform Act (PLRA) provision governing the mandatory recoupment of filing fees, Plaintiff's monthly income is subject to a simultaneous, cumulative 20% deduction for *each* case a court has mandated a deduction under the PLRA, *i.e.*, Plaintiff would be subject to a 40% deduction if there are two such cases, a 60% deduction if there are three such cases, etc., until all fees have been paid in full; and it is further

ORDERED that, under 28 U.S.C. § 1915(b)(2), in each month that the amount in Plaintiff's account exceeds \$10.00, the agency having custody of Plaintiff shall assess, deduct from Plaintiff's account, and forward to the Clerk of the Court payment equal to 20% of the preceding month's income credited to Plaintiff's account, in accordance with *Bruce*, until the \$350.00 filing fee is paid. Each payment shall reference the civil docket numbers of the actions to which the payment should be credited; and it is further

ORDERED that the Clerk of the Court shall send a copy of this Memorandum and Order to Plaintiff by regular U.S. mail.

/s/ Freda L. Wolfson  
FREDA L. WOLFSON  
United States District Judge